

Senate Judiciary Committee Hearing November 3, 2010

Remarks by

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DEPUTY SHERIFF'S ASSOCIATION OF MICHIGAN (DSAM) COMMENTS AND SUPPORT OF SENATE BILLS 1042, 1043, and 1044

Background

In 2003, through leadership in the House and Senate, the Legislature passed Public Acts 121, 124, and 125 of 2003, which the Michigan Court of Appeals held was "clear and unambiguous" language, that mandated improvements in the training and education of Local Corrections Officers and provided for the creation of the Sheriffs' Coordinating and Training Council (Council); the Local Corrections Officer Advisory Board and the creation of the Local Corrections Officer Training Fund in the Department of Treasury. (*Exhibit 1: Public Acts 121, 124, 125*)

The legislation was unanimously supported in committee and the bills were passed in each chamber, in the House with 103 votes and in the Senate with 37 votes. Governor Granholm signed the bills into law on July 31, 2003.

Section 3 of PA 125 created the Council as "an autonomous entity in the Department of Corrections." The Department has no fiscal or programmatic responsibility or liability for any of the Council's duties.

The Council is comprised of five representatives selected by the Michigan Sheriffs' Association (MSA) and two representatives selected by the Deputy Sheriff's Association of Michigan (DSAM).

To pay for the state mandated training, the Acts created a \$12 book-in fee that is paid by each person who is processed into a county jail. The Public Acts provide sheriffs and counties with one of two options to select a method to fund the mandated training: 1) a sheriff/county could remit the entire \$12 book-in fee to the state training fund and then be eligible for Sheriffs' Coordinating and Training Council funds; or 2) a sheriff/county could retain \$10 of the \$12 book-in fee and remit \$2 to the state *if* the county meets or exceeds the training standards for its Local Corrections Officers as established by the Sheriffs' Coordinating and Training Council.

Counties that choose option 2 are ineligible to receive funding from the Council. Section 15 of PA 125 clearly states, "Only those counties that remit 100% of the fee are eligible for grants."

At the direction of the MSA, its executive director authored a letter to all sheriffs dated September 23, 2003 which directed each of them to keep the \$10 portion of the book-in fee and remit \$2 to the state training fund but suspiciously omitted the statutory requirement that before a sheriff and county can retain \$10 of the \$12 book-in fee he/she must first be certified by the Council (*Exhibit 2*). Notably, most sheriffs and counties kept the \$10 portion before being certified by the Council. (More information will follow on this topic).

All 81 sheriffs who operate a county jail complied with the letter, which rendered each county ineligible for Council funds.¹ The letter also provided notice that the MSA was forming an "Implementation Committee" "to begin the overview of the process," even though the Sheriffs' Coordinating and Training Council had not yet been formed or even seated.

In addition, several organizations have a role in Council decisions. In addition to DSAM, these groups include the Michigan Fraternal Order of Police, the Police Officers Association of Michigan, and the Michigan Association of Counties. None of these groups were notified of the formation of an "Implementation Committee." In fact, DSAM discovered MSA's plan to create an "Implementation Committee" through a FOIA request in 2007. From the onset the MSA, a registered lobbying agent, took control of the process and the Sheriff's Coordinating and Training Council.² The door was closed to other organizations that are stakeholders in the process.

The Council was seated on January 6, 2004. Under Public Acts 124 and 125 the Legislature required county sheriffs to meet or exceed training standards established by the Council and receive Council certification in order to be eligible to retain the \$10 portion of the book-in fee. The Council – the alter ego of the MSA – circumvented the Legislature's intent when they instituted their certification procedure. The Council Executive Secretary, a previous employee of the MSA, sent a letter to each sheriff advising that, as long as they submitted a letter to the Council promising to meet or exceed the Council's minimum training standards, they would be "certified" and allowed to keep \$10 of the \$12 book-in fee. (*Exhibit 3*)

In fact, sheriffs who were slow to respond to this letter were sent an additional letter dated November 16, 2005 from Mr. Reed pressing them to become certified by the Council. He explained that "certification must be received prior to your county spending any of the booking fees collected. It is also a requirement before your county can request any training funds from the Council." (*Exhibit 4*) This is a false statement because, again, Section 15 of PA 125 clearly states, "Only those counties that remit 100% of the fee are eligible for grants." In addition, Mr. Reed enclosed a sample letter, which was

¹ Luce and Oscoda Counties do not operate county jails.

² Michigan Secretary of State records show that the Michigan Sheriff's Association became a registered lobbying agent on December 21, 1983 and terminated its lobbying status on January 1, 2009. The "Michigan Sheriff's Association" is only an assumed name. The entity's actual legal name is the "Michigan Sheriff's Association Education Services, Inc.," which has a 501(c)(3) tax status.

one sentence, for sheriffs to become certified. (*Exhibit 5*)

All 81 sheriffs who operate a local county jail responded, most with a one sentence letter, stating they would comply. Based upon a single sentence promising to comply, and some sheriffs stating it was only their intent to comply, and one sheriff who stated he would not comply, the Council certified all 81 counties. (*Exhibit 6*)

The MSA/Council did not require any sheriff to submit action plans to show how they would comply, and did not require the sheriffs to prove they had the resources, training personnel, facilities, proper equipment, equipment that met OSHA standards, that would enable them to comply with the requirement to "meet or exceed" the MSA/Council's training standards. The MSA/Council has never implemented an audit procedure to ensure compliance with their requirements.

For one to appreciate the effect of the executive director's letter, one must fully examine its contents. In the second paragraph, the MSA unilaterally changed the statutory name of the Sheriffs' Coordinating and Training Council by adding "Michigan" to their title, and the Council followed the directive.

Enclosed with the executive director's letter was a question and answer form that demonstrated MSA's view on expenditure of training funds (*Exhibit 7*). Notice that the MSA refers to the Michigan Legislature's preference that training funds should be immediately expended on inmate mental health programs as "our secret." From whom was this to be kept a secret and why?

The scourge of substance abuse and the behavioral problems associated with mental illness in our society has kept crime rates high, and our jails and prisons full. To DSAM's knowledge there is but one county sheriff that has used book-in fee funds for mental health programs. It is still the MSA's "secret" as to why.

On January 21, 2004 the Michigan Department of Treasury published a memo (2004-1) and a follow-up memo dated February 12, 2004 for all county sheriffs, administrators and treasurers. These memos provide guidance in creating a separate special revenue fund to house the book-in fee monies, management and maintenance of the fund, and how the money can be spent. Neither the executive director of the MSA nor the Council chose to correct or amend their previous letters to conform to memo (2004-1). (*Exhibit 8*) Based upon the material we received in our Freedom of Information Act (FOIA) requests, it is our opinion that only a limited number of counties have complied with the Treasury memo/guidelines.

As a further example of the MSA/Council's nonfeasance, during the seven years of the Council's existence, it has refused to adopt an annual budget. This process of adopting an annual budget is mandatory for all state agencies and is mandated by Act 2, PA 1968/Uniform Budget and Accounting Act as amended.

In September 2005, the MSA/Council authorized \$300,000 in state training funds to county sheriff's departments. However, no sheriff's departments in Michigan were eligible to receive funds because they had already kept \$10 of the \$12 book-in fee.

At a December 15, 2005 Council meeting, representatives of DSAM introduced a letter from independent legal counsel which states that the Council cannot direct funds to county sheriffs unless they remit 100% of the book-in fee to the state. The letter also addressed the Council's lack of compliance with the Open Meetings Act. The letter was disregarded by the MSA representatives on the Council. Nothing was done and the grant application process continued. The meeting minutes do not reflect the letter was ever presented nor do the minutes report any discussion about it (*Exhibit 9-Council meeting minutes*).

On March 16, 2006 DSAM filed a lawsuit in Ingham County Circuit Court against the Sheriffs' Coordinating and Training Council alleging misuse of the book-in fee funds, and that the Council was in violation of the Open Meetings Act for never publicly posting any of its meetings pursuant to the mandate under PA 125 of 2003, which incorporates the Open Meetings Act. (*DSAM v. State of Michigan and Sheriffs' Coordinating and Training Council*).

The case was decided in DSAM's favor. The Court placed a permanent injunction against the Council, and by extension the MSA, stopping the misuse of state training funds. The court also found the Council in violation of the Open Meetings Act and ordered it to post public meeting notices. The Court also ordered the Council to pay DSAM's legal fees. (*Exhibit 10*)

Amazingly, the Council disobeyed the court order and continued to violate the Open Meetings Act and Public Act 125 of 2003 by failing to post public meetings notices. On August 17, 2007, DSAM filed yet another lawsuit to compel compliance with the court order.

On September 29, 2008, DSAM settled the lawsuit out of court with the Council. The Council agreed to pay DSAM's legal fees and finally comply with the law.

Sadly enough, the Council used state training funds derived from the \$12 book-in fees to pay DSAM's legal fees. It is our belief that the Legislature did not intend for state training funds to be used in this manner.

On February 22, 2007, the MSA/Council voted to appeal the Circuit Court decision. All five MSA representatives voted to pursue an appeal while the two DSAM representatives voted against it. Attorney General Mike Cox agreed to pursue an appeal on behalf of the MSA and Council.

The Michigan Court of Appeals unanimously rejected the appeal brought by Attorney General Cox and the MSA/Council, and sided with the lower court decision in favor of DSAM. The Court of Appeals found the Council in violation of Public Acts 124 and 125

by attempting to divert training funds derived from book-in fees to county sheriffs that had failed to remit 100% (\$12) of the book-in fees. (*Exhibit 11*)

The clear intent of the MSA letter dated September 23, 2003, and a full examination of the exhibits cited in our testimony, demonstrates that the MSA – and by extension the Council – viewed the state training funds derived from the book-in fees as its own personal slush fund.

TRAINING CERTIFICATION REQUIREMENTS IGNORED BY MSA AND ITS APPOINTEES TO THE COUNCIL

Local Correction Officer training records compiled by the MSA/Council's executive secretary show that, five years after the implementation of the Acts and five years after the sheriffs and counties promised they would meet or exceed the minimum training standards, many of the sheriffs across the State of Michigan have not complied with the training requirements as set forth in the Acts. (*Exhibit 12*)

At its May 26, 2005 meeting the MSA/Council adopted a set of "General Rules." These so-called General Rules became known as "Procedures" after the Court held that the Council was not subject to the Administrative Procedures Act. The Procedures were redistributed at a January 23, 2009 MSA/Council meeting. Note that Procedure #13 states; "it will be the responsibility of the sheriff to determine if correction training programs and inmate programs meet the standards of the Act (Sec. 5 b of 1846 RS 171, MCL801.5b) when utilizing inmate booking fees. The exception to this rule will be formally convened correctional training academies where variances from the MSA/Council standards will have to be approved prior to the running of the academy." (*Exhibit 13*)

This **"Don't call us and we won't call you"** procedure has allowed the **fox to guard the hen house**. There is no oversight over corrections training money at the local level. The MSA/Council refuses to audit both the local training monies and sheriff's training programs to assure compliance with the Act. There are no checks and balances.

This procedure produces 81 different interpretations on how local corrections training monies can be spent. One jail administrator was questioned by her County Finance Director as to the legality of charging overtime to the booking fee fund. When she communicated this question to Council Executive Secretary and C.E.O. James Reed, she received his opinion on how the money can be spent, but, at the same time, Mr. Reed stated; **"The bottom line, however, is that the Council has given the final responsibility of that decision process to the Sheriff not the Finance Director"**. (*Exhibit 14*)

In another instance, a jail administrator questioned Mr. Reed as to why he and another command officer were listed as Local Corrections Officers because "Carl and I are command officers and carry "exempt employee status" under the Fair Labor Standards Act. We are prohibited by Federal Employment Law from doing the Corrections Officers

job and therefore, do not participate in their training". Mr. Reed responded by removing their names from the Corrections Officers roster and stating; "**The Council has left that determination to each sheriff**". (*Exhibit 15*)

A legitimate question that demands an answer is, "What are sheriffs spending their local corrections officers training money on?" Please consider that a MSA representative and Vice Chair of the MSA/Council boldly stated during a MSA/Council meeting, that no one is going to tell me how to spend "my money."

COUNCIL FALLS SHORT ON STANDARDIZED TRAINING

An essential component of the Sheriffs' Coordinating and Training Council enabling Legislation was to ensure that programs were in place to address inmate mental health and substance abuse issues. Training for Corrections Officers to assure their ability to recognize and respond to inmate mental health issues is equally critical. While a skeleton proposal for In-Service Recertification Training (*Exhibit 16*) has been circulated, there is no actual meat on the bones that would constitute an established Recertification curriculum. The MSA/Council has adopted generic topics of training (i.e., P.B.T.s, Gangs, Firearms, Chemical Agents, Electronic Control Devices, etc.) The MSA and its Council refuse to adopt standardized curricula and material which would allow for uniformity in teaching these classes.

Further, the MSA/Council's proposed In-Service Recertification Training outline allows each Sheriff in all 81 counties to choose from among various topics, without providing guidelines as to a robust and standardized training program. Section 8 (d) of P.A. 125 states that "the council shall approve minimum standards and requirements for local corrections officers with respect to the course content of the vocational certificate program, the central training academy, and continuing training programs. The course content shall include education and training on how to identify and manage prisoners with a mental illness." An *a la carte* approach to training programs that are vital to the health and safety of both officers and inmates is hardly the essential training and recertification our officers and the inmates deserve.

CONFLICT OF INTEREST

This Council, a **state agency**, is nothing more than the alter ego of the Michigan Sheriffs' Association, a registered lobbying agent. Consider the record:

- The Council uses the MSA's logo as its own
- Changed its statutory name by adding "Michigan" to Sheriffs' Coordinating and Training Council
- The MSA auditing firm set up the original account for book-in fee money deposited by the State Treasury
- The MSA firm continues to audit state Council books
- There has never been a financial audit of the Local Corrections Officer Training Fund at the State Treasury

- Over the past six years the Council has paid the MSA tens of thousands of dollars on:
 - Rent for office space at a building which is owned and operated by the MSA, a registered lobbying agent
 - Accounting services paid to the same accountant used by the MSA
 - Payments for use of MSA's telephone system and e-mail system (jreed@michigansheriff.com)
 - Reimbursements for routine purchases using MSA's credit card
 - Use of MSA's clerical staff
 - MSA extends credit to the Council for equipment purchases; as recently as January 2009 for a computer purchase

Nowhere else in the State of Michigan will you find a governmental agency housed in the offices of a registered lobbyist. This is a dream come true for the Michigan Sheriffs' Association, being partially funded by the State of Michigan and controlling all aspects of a state agency. Indeed, this is the **proverbial case of the fox guarding the henhouse**. A conflict of interest has persisted as the MSA and the Council are actually one organization.

THE MSA STRUCK GOLD IN LOCAL CORRECTIONS TRAINING

The Sheriffs' Coordinating and Training Council presently has before it a proposal by its alter ego, Michigan Sheriffs' Association, that the Michigan Sheriffs' Association shall be the exclusive provider of entry level testing for Local Corrections Officers. (*Exhibit 17*)

Pre-Service applicants will have to pay a fee to the MSA to take the pre-employment test to become Local Corrections Officers in Sheriff Departments. Note that page one of *Exhibit 17* states "Any vendor selected will be at the sole discretion of the Michigan Sheriffs' Association." The test is only good for one year and, therefore, at the expiration of that year, a candidate will have to test again, and again, and again, and continue to pay the fee.

The pre-employment test is ready to begin as announced by the Executive Director of the Michigan Sheriffs' Association on page 2 of his update. (*Exhibit 18*) The Executive Director purports this test to be free for sheriffs but not the regional academies. The test is actually a fund-raiser for the MSA because it retains \$4 for every test taken.

This test, never reviewed nor recommended for use by the Local Corrections Officer Advisory Board, and not approved by the Sheriffs' Coordinating and Training Council, has been marketed to regional Local Corrections Officer Academies. Thirteen regional academies and approximately 40 sheriffs have agreed to use the test. Under Sections 8 and 9 of PA 125, it is clear that the statutory duty and responsibility to approve this pre-employment test lies with the Council – but only after the Local Corrections Officers Advisory Board develops and recommends the test to the Council.

MISUSE OF BOOK-IN FEE FUNDS

Section 4b. (5) (b) of Public Act 124 clearly states the following: "The remaining \$10 of each fee shall be retained in that county, to be used only for costs relating to the continuing education, certification, recertification, and training of local corrections officers and inmate programs including substance abuse and mental health programs in that county. However, revenue from the fees shall not be used to supplant current spending by the county for continuing education, certification, recertification, and training of local corrections officers."

Section 2 (e) of Public Act 125 defines a "Local Corrections Officer" as "any person employed by a county sheriff in a local correctional facility as a corrections officer or that person's supervisor or administrator."

Over the past two years DSAM members have spent thousands of dollars and hundreds of hours submitting Freedom of Information Act (FOIA) requests to county sheriffs and analyzing the returned documents in an effort to assess the effectiveness of training programs under the oversight of the MSA/Council. Five lawsuits were necessary to obtain full responses to our requests. Our review of invoices, checks, e-mails, and hundreds of pages of documents received from many of the sheriff's departments as a result of our FOIA requests revealed numerous abuses. Local training funds generated by book-in fee dollars were used to pay for the following inappropriate expenditures:

County A

- Sheriff A, a representative on the Council, paid his membership dues to the Michigan Sheriffs' Association in excess of \$3,000
- Sheriff A used local training funds to pay for his trip to Mackinac Island (meals and lodging \$1,075.82)
- Sheriff A used local training funds to send officers to DARE school
- Sheriff A purchased replacement x-ray equipment and x-ray supplies
- Sheriff A purchased a prisoner transfer van to take inmates to and from the county jail and courthouse and other prisoner appointments
- Sheriff A spent more than \$120,634 through May 2008 to pay for an electronic round verification system within the jail. This device is used to verify that local corrections officers made their rounds in the jail
- Sheriff A paid over \$97,000 through May 2008 to purchase a computerized training program for corrections officers, law enforcement officers, and other county employees
- Sheriff A used book-in fee funds to send his senior command staff to quarterly MSA meetings
- After DSAM sued the Council, Sheriff A refused to allow DSAM members who were appointed to the Local Corrections Officers Advisory Board, from his department, to be released from work to attend the meetings of the Board after he had agreed to do so in writing

- Sheriff A and the County kept \$10 of each book-in fee for 236 days before being certified to do so by the Sheriff's Coordinating and Training Council. This is money owed to the State.
- Sheriff A uses book-in fee funds to clean highways (*Exhibit 19*)

Sheriff B

- Sheriff B spent over \$30,000 in weight-lifting equipment for a work-out room for the members of the sheriffs' department
- Sheriff B spent over \$200,000 of book-in fee money to pay for overtime related to the implementation of a jail management system (*Exhibit 20*)
- Sheriff B and county kept \$10 of each book-in fee for 321 days before being certified by the Council to do so, this is money owed to the State

Sheriff C

- Sheriff C used book-in fee funds to personally travel to several conferences including the American Jail Association in Nashville, TN and expensed thousands of dollars on airfare, hotel rooms, food, and beverage
- Sheriff C used book-in fee funds to pay for deputy membership in a local sportsmen club
- Sheriff C and the County kept \$10 of each book-in fee 294 days before being certified to do so by the Sheriffs' Coordinating and Training Council, this is money owed to the State
- After DSAM sued the Council, Sheriff C refused to allow DSAM members who were appointed to the Sheriffs' Coordinating and Training Council, from his department, to be released from work to attend the quarterly meetings of the Council after he had agreed to do so in writing

Sheriff D

- Sheriff D, who is a member of the Sheriffs' Coordinating and Training Council, spent book-in fee money to pay his way to a Michigan Sheriffs' Association conference
- Sheriff D and the County kept \$10 of each book-in fee 18 days before being certified to do so by the Sheriffs' Coordinating and Training Council, this is money owed to the State

Sheriff E

- Sheriff E, who is a member of the Sheriffs' Coordinating and Training Council, transferred local corrections officer training funds totaling \$111,650 from 2004 to 2010 to the county general fund in order to balance his budget

- Sheriff E used \$6,028 of local corrections officer training money to send a corrections officer to the basic police officer certification academy and transferred the officer to road patrol duties
- Sheriff E and the County kept \$10 of each book-in fee 109 days before being certified to do so by the Sheriffs' Coordinating and Training Council, this is money owed to the State

Sheriff F

- The Michigan Department of Treasury required that all counties maintain auditable records as to the booking fees and how a county spends the funds. Sheriff F, a past president of the Michigan Sheriffs' Association and former member of the Sheriffs' Coordinating and Training Council, set up his own checking account and did not deposit the booking fee money with the county. (again, see *Exhibit 8*: Treasury memo 2004-1)
- Sheriff F and the County also kept \$10 of each book-in fee 260 days before being certified to do so by the Sheriff's Coordinating and Training Council, this is money owed to the State

Sheriff G

- Sheriff G, a member of the Sheriffs' Coordinating and Training Council, has never complied with the state mandated annual in-service re-certification standard for his Local Corrections Officers as required by P.A. 125 and Council procedure #7. The Council reports the following;

Number of Officers	% Completed In-Service Requirements
2005 - 218	0.9%
2006 - 218	3.7%
2007 - 232	8.2%
2008 - No records available	
2009 - 142	8.1%

Source Exhibit 12

- Sheriff G and County were ordered by a Lansing Circuit Court Judge to pay DSAM's legal fees stemming from a lawsuit over FOIA requests regarding book-in expenditures. The Sheriff and county initially refused to provide the information requested by DSAM.

The preceding examples (A-G) are a sampling but not an all-inclusive list of inappropriate expenditures.

GENERAL OVERVIEW

- Responses to our FOIA requests prove that, after receipt of the letter dated September 23, 2003 from the MSA executive director, at least 36 counties knowingly withheld money from the State of Michigan by keeping \$10 of the \$12 book-in fee before being certified to do so by the MSA/Council (*Exhibit 21*)
- One sheriff has promised to use book-in fee funds to send his Local Corrections Officers to the MCOLES Law Enforcement Certification Academy – as captured on DVD
- The Council improperly authorized \$300,000 in state training monies in the form of grants to all sheriffs in violation of Public Acts 124 and 125 of 2003. 2005
- Violation of Open Meetings Act, failure to comply with public posting of meeting requirements (2005)
- Violation of Open Meetings Act, failure to comply with public posting of meeting requirements (2007)
- Violation of Open Meetings Act by the MSA/Council Chair who secretly contacted MSA appointees to the Council to individually poll them on whether or not they wanted to appeal the Michigan Court of Appeals decision. (*Exhibit 22* letter to Council Chairman from DSAM President & Council member (2008)
 - DSAM appointees to the Council were disenfranchised from being involved in this important decision by the individual polling of the MSA appointees
- Misspent thousands of dollars in unauthorized expenditures that include sending sheriffs who are MSA/Council and Local Corrections Officers Advisory Board members to junkets throughout the country. These funds under the statute are to be used exclusively for the purpose of training Local Corrections Officers; the Act specifically excludes sheriffs and undersheriffs from utilizing these training funds. A recent response to a FOIA request shows that the MSA/Council has been routinely engaged in such inappropriate expenditures.
- One specific MSA/Council member never attended any statutorily required meetings. However, the MSA/Council authorized funds to send this non-participating sheriff to the American Jail Association Conference in Louisville, Kentucky (2009) where he had a jolly time on state training monies.
- In response to Senate Bills 1042, 1043 and 1044 the Michigan Sheriffs' Association, through its control of the Sheriffs' Coordinating and Training Council, is seeking to use state training funds to hire a lobbyist to represent the MSA interests in opposing this legislation.

FLAGRANT ABUSES BY SHERIFFS & THE COUNCIL JUSTIFIES TRANSFER OF OVERSIGHT TO MICHIGAN COMMISSION ON LAW ENFORCEMENT STANDARDS (MCOLES)

It is DSAM's position that, to actually realize the original intent of Public Acts 121, 124, and 125, the Sheriffs' Coordinating and Training Council should be abolished and all training and oversight responsibilities be transferred to MCOLES.

MCOLES has been established for over forty-five years and is doing exactly what this proposed legislation mandates: providing oversight for all law enforcement training funds and criminal justice training funds in Michigan. The Commission's main focus is on professionalism, formal in-service training, and the number of officers receiving training. The Commission is also responsible for instituting law enforcement training standards, implementing a web-based information system available to all law enforcement members, and awarding training grants that advance its objectives.

The initial drafts of the legislation that would go on to become Public Acts 121, 124, and 125 of 2003 would have charged MCOLES with administering Local Corrections Officers training standards, requirements, and oversight. The Michigan Sheriffs' Association was successful in advocating for the creation of a Sheriffs' Coordinating and Training Council as a new agency to supervise and administer Local Corrections Officers training stating that the sheriffs could do a better job than MCOLES.

The result was 81 separate training programs that have achieved few, if any of the goals set by the Legislature, while significant funding generated for training activities are used for purposes that are expressly prohibited in the enabling legislation. Transferring oversight to MCOLES would reduce redundancy and waste, while producing a program with proven integrity and professionalism.

Under MCOLES oversight, we believe the improved training would result in a safer working environment for the officers and a safer jail for both officers and inmates. The mental health and substance abuse programs for inmates referred to in the Acts would produce better post-release outcomes. These are issues that have far too long been ignored by the MSA-controlled Sheriffs' Coordinating and Training Council.

As we've made clear in our testimony and supporting evidence, the Sheriffs' Coordinating and Training Council is the alter-ego of the Michigan Sheriffs' Association. At the Council's first meeting on January 6, 2003 the following roadmap occurred:

- James Reed, an employee of the MSA, was contracted to work for the Council
- MSA acquired stationary for the Council
- Established an office expense contract with the MSA
- Use of the MSA logo as the Council logo
- Use of the MSA's accounting firm
- MSA was a registered lobbying agent

Exhibit 23 is an extensive comparison of MCOLES and the MSA/Council from an organizational standpoint. The comparison focuses on each organization's ability to administer training, oversight, and distribution of funds. Please note that the MSA/Council has never adopted a Mission Statement to provide a "framework or context within which the organization's strategies are formulated," nor has the MSA/Council adopted Organizational Values to provide "acceptable standards which govern the behavior of individuals within the organization."

MSA/COUNCIL FORCE DSAM BACK INTO CIRCUIT COURT – MAY 2010

It has never been the intention of the DSAM to embarrass anyone. We never wanted this issue to become so contentious. In fact, on five different occasions we attempted to meet with the MSA and/or the Council to see if we could amicably settle our differences (dates available upon request). It took 8 months and a unanimous resolution from the Local Corrections Officers Advisory Board that recommended a meeting before the MSA/Council responded to our written request for a meeting. The MSA/Council replied, "thanks, but no thanks."

In December 2009, Senator Richardville introduced legislation to address the abuses and non-compliance. That did not deter the Michigan Sheriffs' Association or the Council. On January 28, 2010, the MSA-dominated Council bypassed the Local Corrections Officers Advisory Board and voted to authorize \$40,000 of state training monies to conduct training programs for Local Corrections Officers. These training programs and funds were not developed or recommended by the Advisory Board. The two DSAM appointees to the MSA/Council argued against the authorization, stating that it was in violation of the injunction because no county is remitting 100% of the book in fee to the state. Their argument was ignored.

Recently the Court made two very significant rulings in favor of DSAM. At the direction of the DSAM executive board, DSAM was again forced to go back into court and ask the judiciary to enforce the injunction and the Training Act through the filing of a lawsuit in May of this year. In addition, DSAM petitioned the Court to issue a WRIT of Mandamus. A WRIT of Mandamus is characterized as an extraordinary cause of action requiring a governmental body to perform its duties and responsibilities that have been mandated by the legislature. The MSA/Council had bypassed the Local Corrections Officers Advisory Board before.

On July 29, 2010, extensive oral argument was heard in Ingham County Circuit Court on DSAM's motion to enforce the injunction and WRIT Of Mandamus. The Court agreed with DSAM and found the Council (the alter ego of the MSA) to have violated the original injunction. The Court enjoined the Council (and, therefore, MSA) from authorizing any money, directly or indirectly, for training of Local Corrections Officers from Counties that do not remit 100% of the book-in fee. The Court also issued the WRIT of Mandamus requiring the Council (and MSA by extension) to follow the law and not ignore the duties and responsibilities of the Local Corrections Officers Advisory Board. The Order granting the injunction and Mandamus were entered by the Court on October 15, 2010 and are now in full force.

Unfortunately the MSA and the Council refused to even sit down and talk with DSAM representatives. For a very long time DSAM has believed we have no other option but to seek legislative and judicial relief. DSAM has been forced to spend tens of thousands of dollars in enforcing the statute and preventing the Sheriffs appointed to the Council and the Michigan Sheriffs' Association, from circumventing the training statute and the intent of this honorable body in passing the Local Corrections Officers Training Act.

CLOSING REMARKS

In closing, the representatives of the Deputy Sheriff's Association of Michigan who have appeared before you today wish to thank you for your indulgence in hearing our plea for reform of the Local Correction Officers Training Act.

In 2003, this Honorable Body set in motion the introduction of legislation that would provide for standardized training for the local correction officers employed by County Sheriff's Departments. Once the bill was passed, it was hi-jacked by the Michigan Sheriff's Association for the benefit of the county sheriffs as a fund to use for the purchase of goods and services that were not provided in the Act. The evident presented today shows an across-the-board abuse by individual sheriffs in the manner in which they spent their training funds for equipment and services that are not related to the training of local correction offices, which you mandated in Act 124 and Act 125 of the Public Acts of 2003.

Sheriffs have misused training funds on such items as paying their dues to the Michigan Sheriff's Association, purchasing jail round verification system at a cost in excess of \$100,000, transferring over \$200,000 to pay for overtime for the implementation of a computerized jail management system, sending correction officers to the police academy so that they could qualify to become road deputies, transferring booking funds to balance the county general fund, purchasing prisoner transfer vans, paying overtime to guard inmates while they were cleaning public streets and sidewalks, and the list goes on and on. The Deputy Sheriff's Association of Michigan has spent thousands of dollars to gather evidence under the Michigan Freedom of Information Act and has had to take no fewer than five counties into the Ingham County Circuit Court to enforce our FOIA requests.

It is clear, from reviewing the September 2003 letter from Terry Jungel, the Executive Director of the Michigan Sheriff's Association, that it was MSA's intent from the beginning to take control of the Sheriff's Coordinating and Training Council and to use it for the benefit of the individual sheriffs and not for the benefit of the local correction officers who cry out for the professional training they are entitled to.

DSAM has been to court on several occasions wherein it claimed the Sheriff's Coordinating and Training Council, under the direction and control of the MSA, has misused or was about to misuse training funds for purposes not allowed under the Act. To date, DSAM has obtained two permanent injunctions to stop the council from paying its friends for unspecified training, has received an Order from the Michigan Court of Appeals affirming the grant of a permanent injunction preventing the MSA-dominated Sheriff's Coordinating & Training Council from spending any funds that are not allowed under the statute and, of most importance, DSAM has obtained a Writ of Mandamus requiring the MSA-dominated Sheriff's Coordinating & Training Council from bypassing the Local Correction Officers Advisory Board in the Council's desire to spend money for

unspecified training that has not been approved and recommended by the Advisory Board.

It could be said and argued that the actions of the Council that caused the issuance of a Writ of Mandamus could be considered malfeasance and nonfeasance by the sheriffs appointed to the Advisory Board.

As DSAM has pointed out, the Michigan Sheriff's Association, through its domination of the SCTC, has prevented the Council from finalizing the testing requirements for recruits to become local correction officers and have, instead, entered into a contract with a third party to administer the entry level testing for local correction officers and receives a fee for each candidate who takes the MSA test.

The actions of the MSA through its appointees on the Council require that the duties and responsibilities be transferred to the Michigan Council on Law Enforcement Standards to give the 3,000 local correction officers employed by County Sheriffs' Departments the professional training that this honorable body originally ordered.

Under Senator Richardville's proposed legislation, MCOLES would assume responsibility for maintenance of the local corrections officers training fund, distribution of training monies, and setting standards and requirements for the certification, re-certification, and training of local corrections officers. We fully support the Senator in this effort.

It is truly unfortunate that we have to be here today but, as we stated in our opening remarks, we are committed to uniform training standards throughout the State of Michigan. Therefore, on behalf of our local correction officer members we must seek legislative remedy and we look forward to working with you on this legislation or any other proposed solutions.

Thank you on behalf of the Deputy Sheriff's Association of Michigan.